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**From:** Sullivan, Greg  
**Sent:** Monday, July 24, 2017 5:23 PM  
**To:** Armstead, John A.; Arrazola, Ignacio; Davies, Lauris; Farmer, Alan; Guerriero, Margaret; Huetteman, Tom; Kowalski, Ed; LaPosta, Dore; Libertz, Catherine; Norcross, Jeffrey; Olson, Bryan; Owens, James T.; Pearson, Janice; Scott, Jeff; Shanahan, Mike; Smith, John; Stenger, Wren; Weber, Rebecca; amend, carol; Carrea, Steve; Contreras, Peter; Deabay, Elizabeth; Dickens, Aquanetta; Hayes, Scott; Kamke, Sherry; Lamberth, Larry; Linder, Steven; Lombardo, Ginny; McDaniel, Doug; Miller, Mallory; Morlock, Nancy; Pearson, Janice; Rosado-Chaparro, Wilfredo; Sacker, Paul; Snowbarger, Robert; Thomas, Larry; Truman, Bill; Uybarreta, Thomas; Vargo, Steve; Victorine, Gary; Barra, Michael; Bellovary, Chris; Figur, Charles; Hansen, Susan; Jerison, Joanna; Kyte, Larry; Maldonado, Lewis; Sawyer, William; Steiner-Riley, Cara; Swan, Russell; Pallesen, Reginald A.; Matthews, Julie  
**Cc:** Walker, Yolaanda; Smith, TimR; Bosch, Raymond; Boulind-Yeung, Charlotte; Chambus, Francisca; Cherrett, Christine; Coyle, Joan; Galbraith, Erin; Garvey, Melanie; Griffith, Katherine; Kenney, Thomas; Miller, Mallory; Nam, Katherine; Newton, Mimi; Rosado-Chaparro, Wilfredo; Sharke, Janet; Stotts, Krystal; Toffel, Melissa; Trivedi, Adrienne; Sander, Matthew  
**Subject:** Extension of UST ESA Pilot  
**Attachments:** UST\_ESA\_Announcement\_Memo\_7-23-14.pdf; UST\_ESA\_Attachments\_Combined\_07-23-14.pdf

RCRA Division Directors, RCRA Enforcement Managers, and Regional Counsel Managers:

This email provides for an additional three (3) months extension of the UST Expedited Settlement Agreement Pilot. We are allowing its continued use in cases where initial contact with the respondent occurs on or before October 23, 2017.

The extension will provide additional time to distribute, for regional review and comment, the draft revised policy and model documents. We expect to circulate the revised document by early August. In the meantime, please continue to use the UST ESA Pilot pursuant to the guidance in the October 23, 2017, transmittal package (attached).

If you have any questions about the UST ESA Pilot or this extension, please contact Adrienne Trivedi (OCE) at (202) 564-7862, Matt Sander (OSRE) at 202-564-7233, or Tim Smith (OUST) at 202-564-0643.

Greg

Gregory Sullivan, Director  
Waste and Chemical Enforcement Division  
U.S. Environmental Protection Agency, OECA, OCE  
1200 Pennsylvania Ave, NW (MC2249A)  
Washington, DC 20460  
202 564-1298

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<http://www.epa.gov/compliance/complaints/index.html>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 23 2014

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Underground Storage Tank Expedited Settlement Agreement Pilot Program

FROM: Susan Shinkman, Director  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance

Cyndy Mackey, Director  
Office of Site Remediation Enforcement  
Office of Enforcement and Compliance Assurance

Carolyn Hoskinson, Director  
Office of Underground Storage Tanks  
Office of Solid Waste and Emergency Response

TO: RCRA Division Directors, Regions 1-10  
RCRA Enforcement Managers, Regions 1-10  
Regional Counsels, Regions 1-10

This memorandum announces an expedited settlement agreement (ESA) pilot to address certain violations of the Underground Storage Tank (UST) requirements found in Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6991-6991m, and its implementing regulations. We have heard from many regions about the need for additional flexibility to address repeat violators. This ESA can be used to resolve violations addressed under a prior field citation that have been repeated and certain first-time violations that are not covered by the Field Citation Program (e.g., certain cleanup UST violations found in 40 C.F.R. §§ 280.50(c), 280.52(a) and (b), 280.53(a) and 280.62-64). The goal of this pilot is to provide an additional deterrent from future violations with a higher penalty ESA. This ESA is subject to the Consolidated Rules of Practice, 40 C.F.R. part 22.

This ESA will provide a cost-effective enforcement tool to address UST noncompliance. First, in issuing UST field citations we have found a high incidence of repeat violations that are mostly minor in scope and do not warrant the resources necessary to pursue more formal administrative enforcement. Second, the Agency's review of the UST/LUST program identified a number of cleanup-related violations that could be more efficiently addressed under an ESA. Finally, the UST-regulated universe is large and consists of many small businesses that lack the resources to pay a significant penalty such as those typically assessed through formal administrative enforcement. This ESA will provide a more suitable remedy for those situations and result in greater compliance.

The OECA memorandum entitled, *Use of Expedited Settlements to Support Appropriate Tool Section* (2003) (Suarez Memorandum), prohibited the use of ESAs for repeat violators. For the reasons discussed above, the repeat violator prohibition will not apply to this pilot.<sup>1</sup> All other provisions of the Suarez Memorandum remain in effect. We anticipate that the UST ESA Pilot Program will provide a cost-effective enforcement solution to many UST violations and we hope that owners and operators can direct the resources they save in settling under the ESA towards achieving and maintaining compliance.

To facilitate implementation of the pilot, please find attached to this memorandum: (1) an overview of procedures for the UST ESA Pilot Program, (2) a model notice letter, (3) a model expedited settlement agreement and (4) a matrix listing violations and penalties appropriate for resolution under this ESA.

This ESA may only be used once for a repeat violator. Regions should pursue formal enforcement to address any future repeat violations. This ESA can also be issued at the same time delivery prohibition is being implemented (*i.e.*, issuance of a Notice of Intent to Prohibit Delivery or the placement of a Red Tag on an UST), provided the applicable criteria in this Pilot Program and the delivery prohibition policy are met.<sup>2</sup>

After a period of one year from the date of this memorandum, OUST and OECA will evaluate the results of the UST ESA Pilot Program and determine if any adjustments are necessary and appropriate and whether to finalize the UST ESA Pilot Program permanently. By that date, we ask each region to provide the following information to Tom Charlton and Yolaanda Walker of OECA's Office of Civil Enforcement:

1. The number of ESAs that were issued and, of those, the number that were finalized.
2. A summary of penalties and corrective measures secured under ESAs.
3. The Region's assessment of whether the pilot resulted in the ability to resolve cases more quickly and if it allowed resources to focus more on significant cases requiring formal enforcement including any documentation supporting the assessment.

For questions or assistance during the implementation of the pilot, please contact Tom Charlton at (202) 564-6960 or Yolaanda Walker at (202) 564-4281 for UST-related matters. For clean up-related matters, please contact Elisabeth Freed at (202) 564-5117.

#### Attachments

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<sup>1</sup> This exception to the Suarez Memorandum was approved by OECA Assistant Administrator Cynthia Giles on August 14, 2013.

<sup>2</sup> See *EPA Policy on Underground Storage Tanks Delivery Prohibition* 2-3 (June 25, 2012). One example where an UST violation might warrant both remedies is a violation of 40 C.F.R. § 280.41(a)(1) (failure to provide an adequate release detection method).

## **Overview of Procedures for Underground Storage Tank (UST) Expedited Settlement Agreement (ESA) Pilot Program**

The UST ESA Pilot Program was developed to promote expedited settlements of UST enforcement cases. [It is intended to apply to situations that are not appropriate for field citations.] The Field Citation Program remains in full effect.<sup>1</sup>

### **Step 1: Determination of Eligibility**

The UST ESA can be used to resolve those violations listed on the attached penalty matrix. They include (1) violations that were resolved under a prior field citation that have since been repeated and (2) certain violations that are not covered by the Field Citation Program (e.g., certain UST cleanup violations found in 40 C.F.R. §§ 280.50(c), 280.52(a) and (b), 280.53(a) and 280.62-64). In addition, the Field Citation Program only provides for violations of certain regulatory provisions as a single general provision (e.g., 40 C.F.R. § 280.31(b)), but this ESA can address the specific subparts for those provisions consistent with the *U.S. EPA Penalty Guidance for Violations of UST Regulations: OSWER Directive 9610.12*, November 14, 1990 (e.g., 40 C.F.R. § 280.31(b)(1) and (b)(2)). The UST ESA can also assess penalties for different aspects of violations of the same subpart (e.g., 40 C.F.R. § 280.31(d) – the failure to maintain any records of cathodic protection inspections (\$850 per tank or \$1060 per facility) versus the failure to retain every record of cathodic protection (\$100 per record)). The UST ESA can address multiple violations up to a total combined penalty of \$15,000.

It is important to note that the violations listed in the attached matrix are not eligible for the ESA if, for case-specific reasons, they result in significant harm to human health or the environment or may present an imminent or substantial endangerment to human health and environment.<sup>2</sup> EPA enforcement personnel must carefully review each case to ensure that an UST ESA is appropriate.

A repeat violator is a violator who, in the past five years, has had the same or closely-related violation(s) that were subject to an enforcement action at the facility where the violation occurred, or at other facilities under the ownership, operation, or control of the violator. The five-year period commences from the date a federal, state, tribal, or local government provided the violator with notice of a specific violation, without regard to when the violation actually occurred.<sup>3</sup> For ESA eligibility, the EPA intends to include prior EPA enforcement that resulted in the imposition of a penalty. However, EPA staff may consider prior enforcement by states to include actions that did not include penalties, if circumstances warrant.<sup>4</sup>

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<sup>1</sup> See Guidance on Federal Field Citation Enforcement, OSWER Directive 9610.16 (Oct. 6, 1993) (as amended by Rosemarie A. Kelley); Revision to Adjusted Penalty Policy Matrices Package Issued on November 16, 2009 (Apr. 6, 2010).

<sup>2</sup> See J.P. Suarez, Use of Expedited Settlements to Support Appropriate Tool Selection 10 (Dec. 2, 2003).

<sup>3</sup> *Id.*

<sup>4</sup> For example, some states may not have the authority to impose penalties when taking certain enforcement actions. In those situations EPA enforcement staff should consider the nature of those prior state enforcement actions and the seriousness of the violations in determining whether the ESA should apply.

If a violation was resolved by a prior field citation, this ESA may only be used once for a repeat violator. A traditional formal enforcement action should be taken to address any further occurrences by a repeat violator.

### **Step 2: Calculating the ESA Penalty**

The attached matrices contain the established penalties for each type of violation. The maximum penalty under this ESA program is \$15,000. If the total penalty exceeds \$15,000, the facility is not eligible for settlement under this ESA.

The region will document the basis for its penalty calculation.

### **Step 3: Review and Act on the ESA**

If a violator elects to resolve the violations using the ESA (therefore, becoming a respondent), and sends a completed form to the appropriate EPA office (after agreeing to pay the penalty and returning to compliance), the Agency should review the form and accompanying documentation and within 30 days either accept or reject the respondent's settlement offer. The EPA requires a deposit equal to the amount of the penalty for the purposes of payment at the time the respondent signs and sends the offer of settlement to the EPA.

If questions remain as to whether the respondent is in full compliance with UST requirements for the violations identified in the ESA, the EPA may ask for clarification from the respondent before accepting or rejecting the ESA. However, if a respondent has sent a signed ESA to the EPA but has failed to adequately return to compliance, the EPA must reject the ESA. An exception can be made if the remaining non-compliance is corrected and verified within the 30-day review period.

Upon written request by a respondent, the EPA may, at its discretion, grant a single 30-day extension for settlement under the ESA. EPA may grant a second 30-day extension if a respondent can demonstrate unusual circumstances that require the additional extension, provided the Region notifies the Waste and Chemical Enforcement Division in the Office of Civil Enforcement or the Policy and Program Evaluation Division of Office of Site Remediation Enforcement (for ESAs involving cleanup violations) of its intent to do so.

## Model Notice Letter for Expedited Settlements of UST Violations

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Company Contact Address]

Re: Underground Storage Tank (UST) Compliance Inspection of [Facility Name, Facility Address, EPA UST ID No.]: Opportunity for Expedited Settlement within 30 Days

Dear [Company Contact]:

### **I. Notice of Investigation Results**

On [Date], your facility was inspected by [Name of the EPA, State, or Tribal inspector] on behalf of the U.S. Environmental Protection Agency (EPA) to determine your facility's compliance with UST requirements under Subtitle I of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6991 *et seq.*) and its implementing regulations (40 C.F.R. part 280) [or list the state provision with the following footnote<sup>1</sup>]. [If the inspection was carried out by the State and then referred to the EPA, note that]. Based on that inspection, the EPA finds your facility to be in violation of the following requirements:

#### **A. List the violation(s) and the applicable requirement(s)**

If you believe you are not in violation of these UST requirements, you may provide a written explanation, along with any supporting documentation to [EPA Contact] at the EPA address shown below within 30 days of your receipt of this letter.

### **II. Opportunity for Expedited Settlement**

Under RCRA § 9006(d), the EPA may pursue civil penalties of up to \$16,000 per day (as adjusted for inflation) for each violation of UST requirements, including, where applicable, violations of approved and authorized state program requirements. **However, the EPA is offering you an opportunity to settle this matter quickly and at a reduced penalty if you choose to follow the expedited settlement procedures outlined below within 30 days of your receipt of this letter.** This settlement process is optional. You are not required to submit this form. If you do not submit this form, the EPA will conclude you are not interested in pursuing expedited settlement. The EPA will then consider other actions to resolve these violations including the possibility of formal (*i.e.*, non-expedited) administrative or judicial enforcement.

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<sup>1</sup> The EPA is enforcing [State] UST program requirements as approved by the United States on [date] (*see* [Federal Register Notice]) and the revisions to the UST program as approved by the United States on [Date] (*see* [Federal Register Notice]).

If you choose to participate in this expedited settlement process, and the EPA determines you have satisfied the requirements for expedited settlement described below, the EPA will settle the outstanding violations for \$ [Amount].

### **III. Procedure for Expedited Settlement**

To take advantage of the expedited settlement process, within 30 days of your receipt of this letter you must:

- A. Correct the violations identified above in this form. This means you must correct all past violations that can be corrected and ensure your USTs are in full compliance with the provisions that were identified as violated in Section I above. (Note: Some UST violations cannot be "corrected" because they require performance by, or within, a certain date or timeframe in the past.<sup>2</sup> For example, an owner/operator cannot correct a failure to monitor tanks every 30 days for releases (40 C.F.R. § 280.41(a)) once those 30-day terms have expired. However, those violations can be remedied in this ESA if an owner/operator demonstrates steps were taken to prevent a reoccurrence in the future.) This return to compliance along with the costs of returning to compliance must be documented by the owner/operator.
- B. Provide a deposit for payment of the assessed penalty of \$[Amount] as described below.
  - Provide a check or money order for payment sent by mail to: U.S. Environmental Protection Agency, P.O. Box 979077, St. Louis, MO 63197-9000.
  - Provide a check or money order for payment sent by overnight/common carriers (*i.e.*, FedEx, DHL, UPS) to: U.S. Environmental Protection Agency, Government Lockbox 979077, 1005 Convention Plaza SL-MO-C2-GL, St. Louis, MO 63101.
  - Electronic deposits for payment (Vendor Express, Fedwire, Pay.gov) can also be made following these online directions:  
<http://www2.epa.gov/financial/makepayment>.

To ensure proper credit, include the following information with your deposit for payment.<sup>3</sup>

1. The docket number as listed on the UST ESA. (For checks, money orders, and other non-electronic deposits, the document number should be written on the deposit instrument.);
2. Respondent's name and address (as it appears in UST ESA documents);

<sup>2</sup> If an owner/operator is unsure if a violation is correctable, he or she should consult with the EPA compliance officer assigned to this case.

<sup>3</sup> When making an electronic payment, you will have the ability to provide this information. For non-electronic payments, this information can be provided on a note accompanying the payment instrument (check, money order, etc.); however, the docket number should always be placed on the payment instrument.

3. Respondent's point of contact (name and phone number);
  4. EPA contact name and phone number; and
  5. Reason for deposit.
- C. Complete and return to the EPA the enclosed Expedited Settlement Agreement and Final Order ("ESA" or "Agreement). When returning the signed ESA to the EPA, you must also include:
1. Documentation demonstrating that your facility is now in compliance with UST requirements that were alleged to be violated;
  2. Proof of deposit for penalty payment (*e.g.*, copy of the check, a statement of affirmation or receipt of an electronic funds transfer); and
  3. An estimate of the cost of returning to compliance.

Your signed ESA and attached documentation should be sent certified mail, return receipt requested, to:

**[EPA Contact and Address]**

Extensions: The EPA, at its discretion, may grant an extension of up to 30 days if you can demonstrate that it is not feasible for you to come into compliance within the initial 30-day time period. You must request that extension in writing before the initial 30-day time period expires. That written request must explain why compliance within 30 days is not feasible and it must contain a schedule for when you will come into compliance (which must not extend beyond the extension period).

Settlement Agreement Certification: By signing the ESA, you are certifying under penalty of law that you corrected the violations, submitted true and accurate documentation of compliance, provided a deposit to pay the penalty, and that you release to the EPA your deposit for payment upon entry of the Agreement. Failure to meet those conditions means you may be liable for the original violations as well as liable for making a false representation to the U.S. Government.<sup>4</sup> By signing the ESA, you agree to waive your opportunity for a hearing or appeal concerning your violations.

By copy of this letter, the EPA is providing the [State] with notice of the UST violations listed above. For your information, the EPA's fact sheet with details on small business resources and compliance is included with this package.

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<sup>4</sup> Under 18 U.S.C. § 1001, it is a federal crime to make materially false, fictitious, or fraudulent statements or representations to the U.S. Government.

We are committed to the fair and rapid settlement of this matter. If you have any questions, or wish to discuss the general circumstances of your case, please contact the Compliance Officer assigned to your case, [Name] at [Phone Number and/or E-mail Address].

Sincerely,

**[EPA Manager's Name and Signature Block]**

cc: **[Persons to CC]**

Enclosures

Expedited Settlement Agreement  
Standard Penalty Checklist Information for Small Businesses

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION [Number]

[Company Name]  
EPA ID. No. [Number]  
Respondent

## EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency ("EPA") alleges that **[Company Name]** ("Respondent"), owner or operator of the Underground Storage Tank(s) (USTs) at **[Address]** (the "UST Facility"), failed to comply with the following requirement(s) of Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6991 *et seq.*, and its implementing regulations at 40 C.F.R. part 280.
  - a. **[List and provide a brief description of each violation including the requirement violated and date the violation was observed.]**
2. The EPA and the Respondent agree that settlement of this matter for a penalty of **\$[amount]** is in the public interest.
3. The EPA is authorized to enter into this Expedited Settlement Agreement and Final Order ("Agreement") pursuant to section 9006 of RCRA and 40 C.F.R. § 22.13(b).
4. In signing this Agreement, the Respondent: (1) admits that the Respondent is subject to requirements listed above in Paragraph 1, (2) admits that the EPA has jurisdiction over the Respondent and the Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein, (4) consents to the assessment of this penalty, and (5) waives any right to contest the allegations contained herein.
5. By its signature below, the Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that he or she has: (1) corrected the alleged violations, (2) submitted true and accurate documentation of those corrections, (3) provided a deposit for payment of the civil penalty in Paragraph 2 above in accordance with the EPA penalty collection procedures provided to the Respondent, (4) submitted true and accurate proof of deposit for payment of the civil penalty with this Agreement, and (5) agrees to release the deposit for payment to the EPA upon entry of this Order.

6. Upon filing, this Consent Agreement and Final Order shall constitute full settlement of the violation(s) alleged herein.
7. The EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by the Respondent of RCRA, any other federal statute or regulation, or against any violations alleged to have been corrected pursuant to this Agreement that were not corrected.
8. Upon signing and returning this Agreement to the EPA, the Respondent waives the opportunity for a hearing or appeal pursuant to section 9006(b) of RCRA or 40 C.F.R. part 22.
9. Each party shall bear its own costs and fees, if any.
10. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED,

Name (print):

Title (print):

Signature: \_\_\_\_\_

Date \_\_\_\_\_

APPROVED BY EPA:

\_\_\_\_\_  
**[EPA Manager's Name]**  
**[Title]**

Date \_\_\_\_\_

IT IS SO ORDERED:

\_\_\_\_\_  
**[Name]**  
**Regional Judicial Officer**

Date \_\_\_\_\_

# Penalty Guidance for Expedited Settlement Agreements (ESAs) for Underground Storage Tank Enforcement

July 23, 2014

## Selected Violations of Federal Underground Storage Tank Regulations Appropriate for Expedited Settlement

### SUBPART B -- UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION

§280.20 Performance Standards for New UST Systems			
Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.20(a)(1)	Installation of an improperly constructed fiberglass-reinforced plastic tank	T	\$1700
§280.20(a)(2)	Installation of an improperly designed and constructed metal tank that fails to meet corrosion protection standards	T	\$850
§280.20(a)(2)(i)	Installation of a metal tank with unsuitable dielectric coating	T	\$850
§280.20(a)(2)(ii)	Installation of an improperly designed cathodic protection system for a metal tank	T	\$550
§280.20(a)(2)(iii)	Improper installation of cathodic protection system for a metal tank	T	\$550
§280.20(a)(2)(iv)	Improper operation and maintenance of tank cathodic protection system	T	\$850
§280.20(a)(3)	Installation of an improperly constructed steel-fiberglass-reinforced-plastic composite tank	T	\$850
§280.20(b)(1)	Installation of improperly constructed fiberglass-reinforced plastic piping	P	\$1700
§280.20(b)(2)	Failure to provide any cathodic protection for metal piping	P	\$850
§280.20(b)(2)(i)	Installation of piping with unsuitable dielectric coating	T	\$850
§280.20(b)(2)(ii)	Installation of improperly designed cathodic protection for metal piping	P	\$550

§280.20(b)(2)(iii)	Improper installation of cathodic protection system for piping	P	\$550
§280.20(b)(2)(iv)	Improper operation and maintenance of cathodic protection system for metal piping	P	\$850
§280.20(c)(1)	Failure to install any spill prevention system.	T	\$1700
§280.20(c)(1)	Failure to install any overfill prevention system.	T	\$850
§280.20(c)(1)(i)	Installation of inadequate spill prevention equipment In a new tank	T	\$1700
§280.20(c)(1)(ii)	Installation of inadequate overfill prevention equipment in a new tank	T	\$850
§280.20(d)	Failure to install tank in accordance with accepted codes and standards	T	\$850
§280.20(d)	Failure to install piping in accordance with accepted codes and standards	P	\$850
§280.20(e)	Failure to provide any certification of UST installation	F	\$840
§280.20(e)(1)-(6)	Failure to provide complete certification of UST installation	F	\$60 each

#### **§280.21 Upgrading of Existing UST Systems**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Unit of Assessment: Tank (T), Facility (F), or Piping (P)</b>	<b>Penalty Amount/Subsequent Violation Penalty Amount</b>
§280.21(a)	Failure to perform replacement, upgrade, or closure for existing substandard tank systems	T	\$2130
§280.21(b)(1)(i)	Improper installation of interior lining for tank upgrade requirements	T	\$1700
§280.21(b)(1)(ii)	Failure to meet interior lining inspection requirements for tank upgrade	T	\$850
§280.21(b)(2)(i)	Failure to ensure that tank is structurally sound before installing cathodic protection	T	\$850
§280.21(b)(2)(ii)	Failure to provide any monthly monitoring of cathodic	T/F	\$1700/2130

	protection for tank upgrade equipment		
§280.21(b)(2)(ii)	Failure to provide continuous monthly monitoring of cathodic protection for tank upgrade requirement	T/F	\$110/\$140
§280.21(b)(2)(iii)	Failure to meet tightness test requirements for a tank upgraded with cathodic protection	T/F	\$850/\$1060
§280.21(b)(2)(iv)	Failure to meet requirements for testing for corrosion holes for a tank upgraded with cathodic protection	T/F	\$850/\$1060
§280.21(c)	Failure to install any cathodic protection for metal piping upgrade requirements	P	\$1700
§280.21(c)	Failure to meet piping tightness test requirements for metal piping after upgrade with cathodic protection	P	\$850
§280.21(d)	Failure to provide spill prevention system for an existing tank	T	\$1700
§280.21(d)	Failure to provide overfill prevention system for an existing tank	T	\$850

#### §280.22 Notification Requirements

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.22(a)	Failure to notify state or local agency within 30 days of bringing an UST system into use	T	\$1700
§280.22(a)	Failure to notify designated state or local agency of existing tank	T	\$1700
§280.22(c)	Failure to identify on the submitted notification form all known tanks on that site	F	\$850
§280.22(c)	Failure to submit a separate notification form identifying all known tanks for each site where tanks are located	F	\$280
§280.22(e)-(f)	Failure to provide complete certification of all requirements on the notification form.	F	\$840
§280.22(g)	Failure to inform tank purchaser of notification requirements	T	\$1700

## SUBPART C -- GENERAL OPERATING REQUIREMENTS

### §280.30 Spill and Overfill Control

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.30(a)	Failure to take necessary precautions to prevent overfill/spillage during the transfer of product	F	\$2130
§280.30(b)	Failure to report a spill/overfill	F	\$2130
§280.30(b)	Failure to investigate and clean up a spill/overfill	F	\$2130

### §280.31 Operation and Maintenance of Corrosion Protection

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.31(a)	Failure to operate and maintain corrosion protection system continuously	T/F	\$1700/\$2130
§280.31(b)(1)	Failure to ensure that cathodic protection system is tested within 6 months of installation	T/F	\$1700/\$2130
§280.31(b)(1)	Failure to ensure that cathodic protection system is tested every 3 years thereafter	T/F	\$850/\$1060
§280.31(b)(1)	Failure to meet one year 3-year test for cathodic protection system	T/F	\$110/\$140
§280.31(b)(2)	Failure to inspect cathodic protection system in accordance with accepted terms	T/F	\$850/\$1060
§280.31(c)	Failure to inspect impressed current systems every 60 days	T/F	\$850/\$1060
§280.31(d)	Failure to maintain any records of cathodic protection inspections	T/F	\$850/\$1060
§280.31(d)	Failure to maintain every record of cathodic protection inspections	T/F	\$100 per record

<b>§280.32 Compatibility</b>			
<b>Regulatory Citation</b>	<b>Violation</b>	<b>Unit of Assessment: Tank (T), Facility (F), or Piping (P)</b>	<b>Penalty Amount/Subsequent Violation Penalty Amount</b>

§280.32	Failure to ensure that UST system is made of or lined with materials compatible with substance stored	T/P	\$1700
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<b>§280.33 Repairs allowed</b>			
<b>Regulatory Citation</b>	<b>Violation</b>	<b>Unit of Assessment: Tank (T), Facility (F), or Piping (P)</b>	<b>Penalty Amount/Subsequent Violation Penalty Amount</b>

§280.33(a)	Failure to repair UST system in accordance with accepted codes and standards	T	\$1700
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§280.33(b)	Failure to repair fiberglass-reinforced UST in accordance with accepted codes and standards	T	\$1700
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§280.33(c)	Failure to replace metal piping that has released product	P	\$2130
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§280.33(c)	Failure to repair fiberglass-reinforced piping in accordance with manufacturers specifications	P	\$1700
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§280.33(d)	Failure to ensure that repaired tank systems are tightness tested within 30 days of completion of repair	T	\$850
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§280.33(e)	Failure to test cathodic protection system within 6 months of repair of an UST system	T	\$850
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§280.33(f)	Failure to maintain records of each repair to an UST system	T	\$1700
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### §280.34 Reporting and recordkeeping

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
For violations of reporting and recordkeeping, see appropriate regulatory section (e.g., reporting of releases will be under Subpart D).			
§280.34(a)(1) or	Failure to submit notification for UST system	T,P/F	\$840/\$1680
§280.34(a)(1)	Failure to submit certification of a new installation with notification form	T,P/F	\$840/\$1680
§280.34(b)(1)	Failure to maintain analysis of site corrosion potential if corrosion protection equipment is not used	T,P/F	\$140/\$280
§280.34(b)(2)	Failure to maintain corrosion protection equipment operation documentation	T/F	\$140/\$280
§280.34(b)(3)	Failure to maintain documentation of UST system repairs	T,P/F	\$140/\$280
§280.34(b)(4)	Failure to maintain documentation of compliance with release detection requirements	T/F	\$140/\$280
§280.34(c)(1) or	Failure to maintain records at UST site and immediately available for inspection	T/F	\$140/\$280
§280.34(c)(2)	Failure to maintain records at a readily available alternative site	T/F	\$140/\$280

### SUBPART D -- RELEASE DETECTION

#### §280.40 General Requirements for All UST systems (Applies only to Petroleum Tanks)

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.40(a)(1)	Failure to provide adequate release detection method capable of detecting a release from tank or piping that routinely contains product	T/F	\$2130

§280.40(a)(2)	Failure to install, calibrate, operate, or maintain release detection method in accordance with manufacturer's instructions	T/F	\$2130
§280.40(a)(3)	Failure to provide a release detection method that meets the performance requirements of §280.43 or §280.44	T/F	\$1700/\$2130
§280.40(b)	Failure to notify implementing agency when release detection indicates release	T/F	\$1700/\$2130
§280.40(d)	Failure to close any UST system that cannot meet release detection requirements	T/F	\$1700/\$2130

#### §280.41 Requirements for Petroleum UST Systems

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.41(a)	Failure to monitor tanks at least every 30 days, if appropriate	T	\$1700
§280.41(a)(1)	Failure to conduct tank tightness testing every 5 years, if appropriate	T	\$1700
§280.41(a)(2)	Failure to conduct annual tank tightness testing, if appropriate	T	\$1700
§280.41(b)	Failure to use any underground piping monitoring method	P	\$1700
§280.41(b)(1)(i)	Failure to equip pressurized piping with automatic line leak detector	P	\$1700
§280.41(b)(1)(ii)	Failure to have annual line tightness test or perform monthly monitoring on pressurized piping	P	\$1700
§280.41(b)(2)	Failure to conduct line tightness test or use monthly monitoring on suction piping	P	\$1700

### §280.42 Requirements for hazardous substance UST systems

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.42(a)	Failure to provide release detection for an existing hazardous substance UST system	T/F	\$1700/\$2130
§280.42(b)	Failure to provide adequate release detection for a new hazardous substance UST system	T,P/F	\$1700/\$2130
§280.42(b)(1)	Failure to provide adequate secondary containment of tank for a hazardous substance UST	T	\$1700
§280.42(b)(2)	Failure to provide adequate double-walled tank/adequate lining for a hazardous substance UST	T	\$1700
§280.42(b)(3)	Failure to provide adequate external liners for a hazardous substance UST	T	\$1700
§280.42(b)(4)	Failure to provide adequate secondary containment of piping for a hazardous substance UST	P	\$1700

### §280.43 Methods of Release Detection for Tanks

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.43(a)	Inadequate operation or maintenance of inventory control	T	\$840
§280.43(a)(1)-(6)		T	\$140 each
§280.43(b)	Inadequate operation or maintenance of manual tank gauging	T	\$840
§280.43(b)(1)-(4)		T	\$140 each

§280.43(c)	Inadequate operation or maintenance of tank tightness testing	T	\$420
§280.43(d)	Inadequate operation or maintenance of automatic tank gauging	T	\$840
§280.43(d)(1)-(2)		F	\$420
§280.43(e)	Inadequate operation or maintenance of vapor monitoring	F	\$840
§280.43(e)(1)-(7)		F	\$420
§280.43(f)	Inadequate operation or maintenance of ground-water monitoring	F	\$840
§280.43(f)(1)-(8)		F	\$420
§280.43(g)	Inadequate operation or maintenance of interstitial monitoring	T,P/F	\$840/\$1680

#### §280.44 Methods of Release Detection for Piping

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.44	Failure to provide any release detection for underground piping	P	\$2130
§280.44(a)	Failure to provide adequate line leak detector system for underground piping	P	\$2130
§280.44(b)	Failure to provide adequate line tightness testing system for underground piping system	P	\$2130
§260.44(c)	Inadequate use of applicable tank release detection methods	P	\$2130

### §280.45 Release Detection Recordkeeping

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.45	Failure to maintain any records of release detection monitoring	F	\$2130
§280.45	Failure to retain every record for release detection monitoring	F	\$100 per record
§280.45(a)	Failure to document all release detection performance claims for 5 years after installation	F	\$140
§280.45(b)	Failure to maintain any result of sampling, testing or monitoring for release detection for at least 1 year or failure to retain results of tightness testing until next test is conducted	F	\$2130
§280.45(b)	Failure to maintain every result of sampling, testing or monitoring for release detection for at least 1 year or failure to retain results of tightness testing until next test is conducted	F	\$140
§280.45(b)	Failure to retain results of tightness testing until next test is conducted	F	\$2130
§280.45(c)	Failure to document any calibration, maintenance, and repair of release detection	F	\$2130
§280.45(c)	Failure to document every calibration, maintenance, and repair of release detection	F	\$710

## SUBPART E -- RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION

### §280.50 Reporting of Suspected Release

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.50(a)-(c)	Failure to report a suspected release within 24 hours to the implementing agency	F	\$2130

### §280.52 Release investigation and confirmation steps

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.52(a)-(b)	Failure to investigate and confirm a release (if appropriate) using accepted procedures	F	\$2130

### §280.53 Reporting and cleanup of spills and overfills

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.53(a)	Failure to report a spill/overfill (if appropriate) to implementing agency within 24 hours (or other specified time period)	F	\$2130
§280.53(b)	Failure to contain and immediately clean up a spill/overfill of less than 25 gallons	F	\$2130
§280.53(b)	Failure to contain and immediately clean up a hazardous substance spill/overfill	F	\$2130

**Selected Violations of Federal Underground Storage Tank Regulations  
SUBPART F -- RELEASE RESPONSE AND CORRECTIVE ACTION**

**§280.61 Initial Response**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Unit of Assessment: Tank (T), Facility (F), or Piping (P)</b>	<b>Penalty Amount/Subsequent Violation Penalty Amount</b>
§280.61	Failure to take initial response actions within specified time period after a release is confirmed	F	\$2130

**§280.62 Initial Abatement Measures and Site Check**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Unit of Assessment: Tank (T), Facility (F), or Piping (P)</b>	<b>Penalty Amount/Subsequent Violation Penalty Amount</b>
§280.62	Failure to perform initial abatement measures and submit report within 20 days (or other specified time) of release confirmation	F	\$2130

**§280.63 Initial Site Characterization**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Unit of Assessment: Tank (T), Facility (F), or Piping (P)</b>	<b>Penalty Amount/Subsequent Violation Penalty Amount</b>
§280.63	Failure to submit report on initial site characterization within 45 days (or other specified time) of release confirmation	F	\$1700

### §280.64 Free Product Removal

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.64	Failure to prepare and submit a report within 45 days (or other specified time) of confirming the release that includes, among other things, the estimated quantity, type, and thickness of free product observed, recovery system, discharge treatment, and effluent quality	F	\$1700

### Selected Violations of Federal Underground Storage Tank Regulations SUBPART G OUT-OF-SERVICE UST SYSTEMS AND CLOSURE

#### §280.70 Temporary Closure

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.70(a)	Failure to continue operation and maintenance of corrosion protection system in a temporarily closed tank system	T/F	\$850/\$1060
§280.70(a)	Failure to continue operation and maintenance of release deflection in a temporarily closed tank system	T/F	\$1700/\$2130
§280.70(b)	Failure to comply with temporary closure requirements for a tank system for 3 or more months	T/F	\$850/\$1060
§280.70(b)(1)-(2)		T/F	\$850/\$1060
§280.70(c)	Failure to permanently close or upgrade a temporarily closed tank system after 12 months	T/F	\$850/\$1680

### §280.71 Permanent Closure and Changes-in-Service

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.71(a)	Failure to notify implementing agency of a closure or change-in-service	T/F	\$1700/2130
§280.71(b)	Failure to remove all liquids and sludges for tank closure	T/F	\$1700/2130
§280.71(b)	Failure to remove closed tank from the ground or fill tank with an inert solid for tank closure	T/F	\$1700/2130
§280.71(c)	Failure to empty and clean tank system and conduct a site assessment prior to a change-in-service	T/F	\$1700/2130

### §280.72 Assessing the Site at Closure or Change-in-Service

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.72(a)	Failure to measure (if required) for the presence of a release before a permanent closure	T/F	\$1700

### §280.74 Closure Records

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.74	Failure to maintain closure records for at least 3 years	F	\$1700
§280.74	Failure to maintain change-in-service records for at least 3 years	F	\$1700

## SUBPART H -- FINANCIAL RESPONSIBILITY

### §280.93 Amount and Scope of Required Financial Responsibility

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.93(a)	Failure to comply with financial responsibility requirements by the required phase-in time	F	\$850
§280.93(a)(1)-(2)	Failure to meet the requirement for per-occurrence coverage of insurance	F	\$850
§280.93(b)(1)-(2)	Failure to meet the requirement for annual aggregate coverage of Insurance	F	\$850
§280.93(f)	Failure to review and adjust financial assurance after acquiring new or additional USTs	F	\$850

### §280.94 Allowable mechanisms and combinations of mechanisms

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.94	Use of an unapproved mechanism or combination of mechanisms to demonstrate financial responsibility	F	\$850

### §280.106 Reporting by owner or operator

Regulatory Citation	Violation	Unit of Assessment: Tank (T), Facility (F), or Piping (P)	Penalty Amount/Subsequent Violation Penalty Amount
§280.106(a)(1)	Failure to report evidence of financial responsibility to the implementing agency within 30 days of detecting a known or suspected release	F	\$420
§280.106(a)2	Failure to report evidence of financial responsibility to the implementing agency if the provider becomes incapable of providing financial assurance and the owner or operator is unable to obtain alternate	F	\$420

coverage within 30 days.

§280.106(b)	Failure to report evidence of financial responsibility to the implementing agency when new tanks are installed	F	\$420
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**§280.107 Recordkeeping**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Unit of Assessment: Tank (T), Facility (F), or Piping (P)</b>	<b>Penalty Amount/Subsequent Violation Penalty Amount</b>
§280.107	Failure to maintain copies of the financial assurance mechanism(s) used to comply with financial responsibility rule and certification that the mechanism is in compliance with the requirements of the rule at the UST site or place of business	F	\$420